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Personnel Office r

22 September 1949

Office of General Counsel

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[REDACTED]
the United States for the purpose of Taking Annual Leave.

1. The basic memoranda returned herewith from the Acting Assistant Director for Operations, dated 15 September 1949, requests a decision as to whether 2 employees of the [REDACTED] could be returned with their families to the United States after completion of their contract, for the purpose of taking annual leave at Government expense.

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2. One employee, Mr. [REDACTED], was a new appointee to [REDACTED] the other, Mr. [REDACTED], a transferee.

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3. P.L. 110 is inapplicable to these cases since it is restricted to permanent duty stations outside the continental United States, its territories and possessions, and the question arises from Hawaii.

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4. In the case of [REDACTED] a new appointee, P.L. 600 is applicable. Section 7 provides for the transportation of employees with their families "outside continental United States" and return at the expiration of their tour of duty. This has been extended by Interpretation of the Comptroller General (28 Comp. Gen. 163), to permit employees to travel with their families to the United States for purposes of leave, and return to their old station without requiring a new appointment or a break in service, provided the employees agree to renew their contract prior to leaving their station. Thus, a new appointee may be granted leave and return to his previous foreign station or be changed to another.

5. In the case of a transferee, however, the situation is somewhat different and there is no present clear authority authorizing an employee to return with his family to the United States for leave, at the expense of the Government. Section 1 of P.L. 600 would, of course, permit transfer of an old employee accompanied by his dependents, but the extended concept of Section 7 would not be available.

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cc: Subject

Chrono

Legal Decisions

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25X1A

22 July 1949

General Counsel

Leave With Pay for Agents

1. We refer to your memorandum of 21 July 1949 in which you raise the question of granting leave to agents who are under contract to OPC, CIA, as opposed to normal staff employment.

2. We note that in the contract to be considered there is no provision for or prohibition against leave. It is our understanding that these people are working in Washington under Federal cover in the same offices with civil servants. The contract, however, is stated to be for personal services and, therefore, does not create an employer-employee relationship that would bring the individuals under the various Federal leave statutes.

3. In general, it may be said that no pay will accrue unless work is performed; however, Congress has clearly indicated its policy that it is in the best interests of the Government to give liberal leave rights to its employees.

4. In our contracts for personal services, it has been established that we can specify what the leave provisions will be. This in our opinion, is not a right in law of the contractor, as it is in the case of an employee, but is a benefit granted by the Government. This is borne out by the fact that certain of our contracts for personal services specifically provide that no leave shall accrue.

5. In the present case where no mention of leave is made, we feel that it is within the discretion of the administrative officer concerned to grant leave to the contractors if, in his opinion, such leave is in the best interests of the Government. In our opinion, this again is purely a benefit granted by the Government and not a right of the contractor. It is further our opinion that it is within the discretion of the administrative officer concerned to specify the nature of the leave and whether it is to be with pay or without pay. This should be specified in advance, and if leave with pay is properly authorized, we feel there should be no question of payments under the contract.

6. In the exercise of his discretion, the administrative officer concerned should not grant leave in excess of that available to regular employees of the Government and presumably should be guided by policies of the regular employees in the office in which the contractors are working. Further justification for the granting of leave is present in the fact that security will be served by following normal personnel procedures of the office in which the individuals work.

LEH:custon:m

cc: Chrono